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In copertina: A protest action by “No al carbone” (© Andrea F. Ravenda)

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«Foreseeable yet unforeseen events»: Ethnography of a trial for unpremeditated disaster*

Introduction

Over the last thirty years, Italian courts have staged a series of criminal cases that raise important public issues, thus offering a valuable window into shifts in collective perceptions of complex social phenomena such as risk and environmental disaster. Scholars studying risk from a socio-cultural perspective may employ a diversity of approaches, but they agree that the concept of risk has come to permeate life in Western societies and become a central element of human subjectivity. The contemporary meaning of the term, they remind us, alludes to the concepts of choice, responsibility and guilt and the belief that it is crucial for humans to intervene in order to manage and mitigate risk (Douglas 1991, 1996; Giddens 1994; Luhmann 1996; Beck 2000). In late modern society, «the actual nature of risks is a matter of continuing conflict» (Lupton, 2003: 75) between those in charge of defining it (the experts), those tasked with using these definitions and the lay public. A judgment about risk is, at the same time, also an implicit moral judgment about society and such judgments may generate destabilizing political effects in the local contexts where these risks manifest in the form of disasters.

Recent years have seen a dramatic increase in collective court cases in view of the proliferation of global risks due to rapid technological development and climate change, the concrete negative effects these shifts have on specific local contexts, and citizens' increased awareness of environmental issues. Particularly in European legal frameworks, the fact that victims are granted the right to bring civil actions and take part in judicial cases (Barbot, Dodier 2014: 407) has offered them new opportunities to establish themselves as active subjects with the power to intervene in social processes of reality construction (Thorsen 1993)[1]. In some cases, the presence of these victims has turned courtrooms into battlegrounds in which the plaintiffs struggle to express visions of local areas and expectations for the future that conflict with prevailing institutional management practices. Through victims' participation, trials are able to provide reparations for damage and injustice. This function not only plays out through economic compensation; often, the victims also invest expectations and resources in the hope of achieving a form of justice that is powerfully therapeutic. As shown by conversations I have had with the relatives of victims of serious environmental, natural and technological disasters in Italy over the last twenty years[2], it is not uncommon for survivors to embark on an often painful path of seeking public recognition of the factors that caused the tragedy. This process of identifying the responsible parties also represents a process of stitching back together the universes of meaning torn asunder by traumatic events. The words of the president of *Il mondo che vorrei*, which was founded following a train accident in Viareggio (Tuscany) on June 29, 2009 in which the woman lost her young daughter, are exemplary in this regard:

> In Viareggio a trial has just begun, a trial that is likely to go on without identifying the guilty parties, as many others for natural disasters and workplace accidents have done [...]. In these days, those in Rome are working hard to make sure not even we get to have a trial, us like many others. There is this thought that destroys me, it torments me, it terrifies me like nothing else: the idea of having a minimum, just a little piece of truth, to be able to look them in the eyes some day and tell them you, your politics of course, you killed my daughter and 31 other people. Not that such a thing would make us happy, but still, I would feel more worthy of looking at my daughter when I visit the cemetery [...]. I refuse to take part in these games anymore. I do not like this world anymore; we must do something to make sure it changes. There will be stonewalling, but nothing could be worse than the way things are (April 6, 2011).

In these cases, criminal proceedings represent a well-thought-out effort to comprehend and link up dramatic events and political responsibilities. They serve as a mirror to reflect the social conflicts that often arise around disasters, offering researchers

the opportunity to understand how social systems and the law interact.

This article focuses on a criminal case initiated by the Public Prosecutor of Messina following a "natural" disaster – flooding accompanied by mudslides – that destroyed a number of villages in the Ionian province of this Sicilian city in October of 2009, causing 37 fatalities[3]. In terms of its formal features, I approach this trial as a competitive communicative interaction (Carzo 1992) expressed through a highly structured ritual. In keeping with insights into the pragmatics of communication, I analyze the interactions I observed during the hearings as situated social activities that can only be understood by uncovering the structures and procedures that influence them as well as the participants' motivations and forms of rationality (Boholm 2008).

From a social and political perspective, I treat the trial as a device in the sense proposed by Barbot and Dodier (2014, 2015), that is to say, a preordained concatenation of sequences that establishes limits and contributes to shaping the possible action of the various subjects involved. As such, the device functions to both describe the reality in question (on the basis of a system of proof and evidence) and modify it.

My interest in the plaintiffs' representations of disaster is part of a broader ethnographic research project that I began in the months following the 2009 flood. As part of this research I took an active part in the political and social life of the villages affected by joining a local committee and participating in its activities. Employing the interpretive tools offered by anthropological theories, I observed – and later described – the discursive practices through which this «physical phenomenon» was turned into a complex and conflict-ridden «social event» (Revet 2010: 43-44). In so doing, I sought to reveal the multiple instances of rhetorical manipulation the concept of disaster lent itself to in this particular case, and the political aims underlying these instances.

In the 1970s, anthropology embarked on a process of rethinking the notion of disaster (Oliver-Smith, Hoffman 1999). Driven by a critical spirit that permeated physical and engineering definitions as well as the analytical perspectives hitherto adopted by the social sciences, anthropologists and geographers questioned the technocentric approach that gave rise to scientific narratives of disaster (Benadusi 2015: 38). From that point, researchers have used the concept of vulnerability to shift attention from the event itself to the conditions that contributed to producing it. It has become increasingly common to interpret disasters not only as a breakdown in the social order caused by an external agent, but rather as a consequence of the social order itself (Herwitt 1983), «the result of heavily entrenched historical and social processes that helped generate vulnerability well before the destructive physical event occurred» (Benadusi 2015: 39).

Working within this tradition of study, in the first part of the article I show how inhabitants of the flooded villages as well as national media outlets (albeit with divergent motives) both produced representations of the flooding that immediately triggered a process of "denaturalizing" this catastrophic event. The disaster, by becoming part of a criminal trial and thus coming to constitute a legally relevant event, ended up being subjected to a different, more highly structured system of representations. My aim in this article is to shed light on this regime of truth in order to reveal the processes through which the event was objectified and the instances of responsibility asserted by victims' testimony were subjectified.

My choice to address processes of legal truth construction was also dictated by my personal involvement in the events discussed in the courtroom. I suffered physical and property damage due to the flooding and thus requested compensation. This gave me the opportunity to sit on the witness stand and take an active part in the legal proceedings. This dual involvement, both intellectual and personal, led me to adopt a reflexive, auto-ethnographic stance and an approach based on practices of «observing participation» (Soulé 2007). In this article I discuss the implications of my personal involvement in the events covered by the trial in terms of both methodology and ethics. I then go on to analyze the procedural documents in order to clarify the discursive practices through which the disaster was narrated, deconstructed and reassembled during the course of the hearings, an analysis aimed at uncovering the complex web of knowledge and expertise that contributes to shaping contemporary public perceptions of disaster. Lastly, I investigate the strategies victims used to assert their own truths and participate in establishing the causal connection between actions and facts that is required for assigning individual legal responsibility.

A lengthy, drawn-out disaster

The Messina Public Prosecutor's investigation reconstructed the recent environmental history of the flooded villages in order to ascertain what role human action might have had in producing the catastrophic effects of the disaster. In fact, although

flooding could be considered a natural disaster, the effects of floods and mudslides are frequently attributed to human intervention in the local environment (Ugolini 2012). We also have a more accurate understanding of the physical and geological laws that govern these phenomena, and the kind of empirical observation that is possible in relation to flooding and mudslides lends itself to very different possibilities of prediction and forecasting than in the case of seismic swarms or earthquakes (Petrilli 2015: 12).

In the case presented here, the idea that the disaster might have been foreseen constituted the cornerstone of the prosecution's case and was buttressed by the temporal sequence of the events leading up to the flood. As early as 2007 the same areas had been subject to similar flooding, though of lesser intensity, along with recurring instances of hydrogeological instability that had adverse effects on local economies and inhabitants' daily lives. The idea took root that a catastrophe was imminent, a state of affairs that Beck argues is typical of the contemporary *conditio humana* (2009). As a result, risk became a ubiquitous element in the daily lives of residents and helped generate a widespread awareness of the environmental and social vulnerability of local areas[4]. In the years between the two floods, groups of residents organized into committees, along with single individuals, pushed to mobilize collective protests and file individual complaints with local agencies and public institutions in an effort to convince these public bodies to carry out environmental rehabilitation and take measures to make the area safe (Falconieri 2011). Their efforts were not successful in stimulating institutional action, however, and the political and administrative class' inefficiency and inability to heed the warnings from local residents and the environment was identified as a significant contributing cause of the 2009 flood[5].

Similarly, the charges proposed by the Public Prosecutor – causing an unpremeditated disaster, manslaughter and unintentional injury – targeted incompetence and recklessness in the actions of political and institutional actors and expanded the scope of responsibility imagined by the inhabitants of the flooded villages. The investigations focused on different types of institutional actors: technicians and experts, particularly engineers, geologists and architects working as consultants for the Office of Land and Environment of the Region of Sicily and municipalities of Scaletta and Messina, charged with having overlooked «the dangerousness of phenomena of flooding, sediment transport and debris flow and consequently underestimated the risk associated with them» (Final Brief: 34); functionaries and directors in the same office, in their position of overseeing the coordination of technical activities; the deputy commissioner appointed to emergency management after the events of 2007, for having failed to ensure work was carried out to adequately protect the town; the mayors of the municipalities of Scaletta and Messina for having failed to take the necessary steps to safeguard and protect the town and failed in their duties of emergency management, in particular that of warning and evacuating the inhabitants of the at-risk areas (*ibidem*: 35). The Prosecutor argued that the erroneous assessments variously produced by the above parties contributed a new risk factor to the causative process leading up to event of the crime.

The judge for the preliminary hearing affirmed nearly all the grounds presented by the Prosecution and its consultants and, on March 18, 2013, 15 of the 18 suspects were indicted and attributed responsibility in terms of «omissions, delays, errors and biased interpretations of the danger» which should instead have been regarded as «concrete, given the previous landslide in 2007». During the same hearing, the judge accepted the requests of 168 individuals to take part in civil proceedings as plaintiffs and formally concluded the preliminary would potentially stage of the trial. From that moment onward, a lengthy period of judicial stalemate began, characterized by repeated postponements of the hearings; many victims saw these delays as a deliberate attempt to cause the statute of limitations for the crimes in question to expire, and publicly declared their lack of confidence in the Italian judicial system. It was not until January 2014 that the main hearings for the trial finally began. At this point, the trial took a sudden turn when a new single judge was appointed, a judge widely admired in the tribunal of Messina for his seriousness and precision in the courtroom. Beginning with the very first hearing, the judge set a busy schedule and established rules delimiting the range of actions the various parties could take[6]. He also decided to forbid audio and video recordings during the hearings in order to ensure the issues addressed in the courtroom would not be turned into a spectacle. This decision turned out to be particularly influential in determining the relative importance of the trial in local and national public debate. As a lawyer for the plaintiffs argued, this choice on the part of the judge reflected his negative view of the role the media tends to play in criminal proceedings. In the legal sphere, many commentators see today's increasing media interest in criminal proceedings as evidence of a sensationalist tendency that may have a negative effect on the process of determining legal truth (Barbot, Dodier 2011). In agreement with

this view, the judge deemed that having video cameras in the courtroom distort the «genuineness of the trial», upset the «tranquility» of all the parties involved and exert undue pressure on the objectivity of the final ruling (trial transcript, 29/1/2014).

The history of the flood is characterized by an adversarial relationship between the media and local actors. As a matter of fact, the disaster was not able to elicit empathy and attract the attention of Italian opinion. Press and television outlets only became interested in the days immediately following the event, and their narratives of it reproduced negative stereotypes about the area and its inhabitants as part of a rhetorical process that transformed the victims into perpetrators (Falconieri 2015b). This media silence was exacerbated by a gradual withdrawal of the national political-institutional class. While these factors resulted in a form of biopolitical governance of the disaster (Marchezini 2015: 363) that was less stringent than those seen in other contexts, at the same time it also fuelled local peoples' perceptions that they had been abandoned by state institutions, a sensation they had already felt strongly in the years leading up to the disaster.

Public accounts of trials represent tools for claiming individual and collective rights that the various actors involved can use to grant more power to their political action. By dampening national and local media interest in this particular trial, the judge's ban on filming once again deprived the victims of the chance to assert, in a wider context, a narrative of the disaster that diverged sharply from that presented by officials. The resulting feeling of disillusionment significantly affected their participation in the proceedings. During the two years of hearings, only six of the plaintiffs were regularly present in the courtroom, while just over 10 of them took part occasionally. The lack of interest in the trial was in keeping with a more general distrust of institutional and collective measures that could be seen in the post-disaster reconstruction period. In those years, locals' forms of resistance often took individual paths and were rarely expressed in collective forms capable of bringing together subjects with common interests (Falconieri 2015b). Similarly, when the trial did begin, citizens' committees choose not to bring a civil action. Some victims from the town of Scaletta viewed the decision to take part in the civil proceedings as plaintiffs as a «moral duty»; many others, although they considered the possible condemnation of the defendants to represent a powerful «political signal», did not believe they had any power over the judge's final decision.

Reflections on method and positioning

By taking part in criminal or civil trials, anthropologists are ever more frequently putting into practice the discipline's potential for advocacy[7]. Although it did not entail the direct application of anthropological knowledge in the trial dynamics or participation based on the social and political activities I had previously carried out in the flooded areas, I conceptualized the research I conducted in the courtrooms of the tribunal of Messina as a particular way of putting anthropology to «public use» (Dei 2007; Falconieri 2015a)[8]. As Mara Benadusi notes (2015: 46), it is not uncommon for anthropologists' analytical interest in disasters to follow the trajectories of their private lives, either because the ethnographic terrain where they are conducting fieldwork is struck by natural disasters or because they themselves are victims. The cases of Anthony Oliver-Smith and Susanna Hoffman are emblematic of these two forms of involvement. In my case personal experience, with its burden of suffering, disorientation and anxiety, translated into a powerful urge to intervene in both processes of representing events and processes of emergency management and post-disaster reconstruction. Motivated by the hope that solid ethnographic research might help reveal the gap between the perception of risk the local populations expressed in the years leading up to the disaster and the underestimation of these same factors by the agencies in charge, I dived «headlong into crisis» (Checker *et al.* 2014: 408), fully aware of the ambiguities and criticisms my multi-faceted positioning might generate[9]. It was only thanks to the status of plaintiff that I acquired the right to express "my own truths" about the disaster. I therefore took advantage of the spaces I was able to access thanks to my personal position to give voice to the collective demands that I shared with many residents of the flooded villages, who were plaintiffs in the trial like me. While in the past the identity of victim had been confined to private spheres and analyses, on this occasion it was necessary to construct and publically stage this identity, and to do so I was required to engage in an endeavor of reflexivity, especially on the level of emotions.

Just as the disaster left profound marks on the bodies and emotional lives of people – permanent injuries, scarring, sleepless nights and protracted states of anxiety – the trial proceedings likewise engaged these same bodies and emotions over the course of the hearings and long hours spent listening to the testimony of the other witnesses. However much I sought to maintain a participatory yet detached stance, when listening to accounts

of the event provided by experts and technicians and the stories of the other plaintiffs I could not help but re-live, both mentally and physically, the emotions I experienced during the flood and long reconstruction period. These fears, hopes and expectations helped me to empathically comprehend the unspoken feelings of those who had shared this overwhelming experience with me, emotions and assumptions that also served to clearly position me within the geography of relations played out in the courtroom. Since I was myself a witness, I was not allowed to sit in on the statements of the witnesses who took the stand before me; I could only access them by reading the official transcripts of the proceedings. Nonetheless, I decided to attend the trial from inside the courtroom. The other individuals scheduled to testify in the same hearing as me waited outside the courtroom until they were called to the stand. Forced to deal with a ritual that was unfamiliar to them, the witnesses sought to allay their more or less pronounced but nonetheless visible anxiety and kill time by engaging in lengthy conversations that repeatedly evoked the disaster through accounts of their own personal experiences. Over the course of the trial, the anteroom of the Court of Assizes became an ethnographically dense space in which I was able to engage with the witnesses' expectations and concerns about the outcome of the trial[10].

In order to understand the discursive practices through which the disaster was represented in the courtroom, I had to immerse myself in a new field of study and adopt the stance of someone who was about to embark on an initiation process, a process that would open the door onto the rhythms, symbolism, languages and behavioral norms of a new ritual. Anthropologists who choose to engage with research objects that are as multidimensional and dynamic (Anthony Oliver Smith 2011: 26) as a disaster often find themselves working in highly multidisciplinary contexts. In order to translate multi-faceted phenomena into a unified yet not simplified picture, researchers must remain constantly open to new forms of knowledge that might often be quite unlike their habitual disciplinary backgrounds. I consulted with engineers, geologists and architects, and these privileged interlocutors aided me in acquiring the minimum of knowledge I needed to understand both the physical phenomenon that gave rise to the disaster and how to relate to the various actors in charge of emergency management with a better familiarity of the issues involved. When the flood then became an object of legal attention, I struck up a relationship of ongoing collaboration with two young female lawyers who acted as my main guides and teachers. Thanks to their patience in listening to and, in some cases, critiquing my ideas and answering the countless questions I had over the years of ethnographic fieldwork, I learned to navigate in a world that I was only partially familiar with and to think about the disaster using new, unknown tools of interpretation. The analyses and interpretations of the trial I present in this article are fruit of this exchange as well as a continual though less intense dialogue I maintained with two other lawyers for the prosecution.

Discourses and representations of the disaster between science and law

> JUDGE: Take it for what it is, but I believe that a trial is a technical process. It is a process based on the evaluation of technical and legal issues. From a brief, superficial overview of the witness lists, it seems to me that a number of witnesses will not provide us with testimony on these issues that is particularly weighty. And so I urge the Parties, and the Public Prosecutor first and foremost, to assess whether all the witnesses on the list are really necessary [...], to collaborate with me in ensuring that the evidentiary stage of the proceedings is effective in relation to the specific aims of assessment, in other words, to narrow the focus wherever possible ... I have never restricted anyone's rights, I think that you know that about me. However, if these proceedings were to go forward, if we could just focus our attention on that which is truly useful to the purposes of these proceedings (trial transcript, 29/01/2014: 100).

Communicational dynamics in the courtroom are shaped by an asymmetrical model that is in turn based on a disparity of power between the parties. The judge's speech not only provides information, it also requires the parties to act, obliging them to do or not do certain things. In this case, the judge's proposal that the parties review the witness lists laid the "truth conditions" (Latour 2007: 356) within which the legal narratives of the disaster were framed. The fact that discussions of technical issues are granted a central place in proceedings gives criminal trials a distinct character. In these settings, it is common for communicative practices to simultaneously reference the abstract, formal rules of law and the pragmatism of scientific discourse. In the trial I observed, this was clear in the progression of the defendants' appearances in the courtroom and the defense strategies they adopted: the mayors of Messina and Scaletta, the only political defendants, did not participate in the hearings and both of them waived their right to testify, entrusting their defense

exclusively to their experts and lawyers. In contrast, the technical defendants were always present along with, albeit less frequently, the regional functionaries. Not only did these defendants provide in-depth testimony, addressing the specifics of the scientific issues brought out during the process, they also actively contributed to the construction of their own defense, in some cases steering the questions posed by their own lawyers.

The choice to hold a technical trial was motivated in equal parts by the specific nature of the Prosecutor's investigative activities and the legal and social concept of disaster. Just as Western societies have developed explanations of disaster that are ever more rooted in scientific technical rationality and attribute forms of responsibility within a «risk scenario» (Revet 2010: 50), legislators in Italy have been driven by the rapid development of new and increasingly powerful technologies to prioritize new possibilities for forecasting these events thanks to the creation of new forms of scientific and technological knowledge (Cadoppi *et al.* 2010: 18). In the Italian legal system, until the end of the '80s judges were not asked to follow a deductive-nomological model of scientific reasoning in establishing a causal link between facts. Rather, this link was to be established exclusively through the independent opinion of the judge (using an individualizing model), with the judge required to perform a task similar to that of a historian by observing the temporal sequence of events in order to trace the etiological links between them[11]. Subsequently (with the 1990 Stava judgment), the Italian system adopted a model in which the task of establishing the correct succession of phenomena was entrusted to scientific laws (Cadoppi *et al.* 2010: 98). It was only in the first years of the 21st century that the arguments put forward in a well-known judgment (2002 Franzese judgment) led Italian jurisprudence to settle on a synthetic approach: the decision of the interpreter (the judge) should not be guided by scientific law alone, but by the criterion of "high logical probability and rational believability". This premise allows the judge to use scientific parameters to investigate the issue of causation in relation to a specific situation but without being bound by them.

In this trial, although the Public Prosecutor's closing briefs continually referenced the criterion of high logical probability and rational believability, the case the Prosecutor presented throughout the trial depended almost entirely on the technical statements and courtroom testimony of well-known geologists, geomorphologists and hydraulic and structural engineers in order to prove causation. On one hand, their analyzes served to establish the succession of events and the causal relationship between individuals' actions and the disaster; at the same time, they also served to substantiate legal concepts of prevention and predictability based on the idea that harm is measurable and scientific knowledge trumps other forms of knowledge (with the correlate assumption that humans are capable of controlling natural phenomena). In the trial analyzed here, to construct a legal ruling natural and human facts were put into order following the deductive model of explanation typical of scientific reasoning, which is based on experiments, tests and demonstration.

To demonstrate that the floods could have been predicted, the prosecution's experts performed a double operation. To begin, they deconstructed the disaster by breaking it down into the individual physical phenomena that caused it. In particular they distinguished the weather-based events from debris flows and further divided the former (rain) into two distinct phenomena – light, prolonged rain followed by intense precipitation – the combination of which was considered the factor that triggered the landslides that destroyed these areas. At the same time, they outlined the state of the art of scientific knowledge about the phenomena in question, indicating conferences, specialized publications and research carried out by public and private entities as a result of similar events that took place in Italy, and argued that the events of 2007 were a clear sign of the fragility of these areas. The combination of these two types of analysis allowed them to state that there was sufficient awareness of and knowledge about these phenomena in the period prior to the disaster as to be able to establish an accurate degree of statistical predictability. In contrast, they asserted, an analysis of urban planning and structures in the flooded waterways show «the lack of a perception of the existence of risk associated with these events» (trial transcript, 24/09/2014: 67).

In the expert witnesses' analysis, the event that inhabitants identify and refer to as "the October 1st flood" was divided into individual events, related but distinct. This helped to deconstruct the very concept of natural disaster: rather than an exceptional occurrence, it was presented as the result of careless political and technical choices. To support their hypothesis, the consultants stressed that the inhabitants of the flooded villages plainly displayed a clear understanding of the risk, as evidenced by the fact that private individuals took various mitigation measures aimed at protecting their homes. While on their own these small construction projects failed to stem the flood, if they had been included as part of a more general construction plan they might have succeeded in limiting its scope. On

the basis of the analyses presented by the expert witnesses the Prosecutor was able to assert that:

> The 2009 event, both when viewed through the hydrology and environmental engineering methodology proposed by the Hydro-Geological Layout Plan and when viewed through the methodology of Meteorology, leads to the same conclusion: specifically, that it was statistically predictable [...]. What is relevant for our purposes here: no single phenomenological-chronological "portion" of the event can be regarded in any way as absolutely exceptional in character [...]. The evidence of direct observation, at any rate, might have been sufficient (trial transcript, 7/10/2015).

While scientific analysis and the «evidence of direct observation» may overlap in that they both reach the same conclusions, they were granted different amounts of space during both the investigative phase and the trial itself. Some lawyers for the plaintiffs considered this excessive focus on the discussion of technical and scientific issues a 'mistake' on the part of the Public Prosecutor who, «in the face of a very detailed illustration of the technical and environmental aspects», presented a «much less in-depth analysis of the conduct of the defendants» that granted the defense lawyers a great deal of leeway to dismantle the causal link between the conduct of the individual defendants and the effects of the catastrophic event (Lawyer for the plaintiffs, trial 10/28/2015).

The special power granted to «the word of science» (Ciccozzi 2013) in trial proceedings reflects a belief, visible since the mid-1900s, that it is possible to analyze and understand every aspect of social life by consulting with experts. It is common for physicians, biologists, engineers and psychiatrists to be called in to objectify complex and multi-faceted aspects of the matters discussed in the courtroom, reducing them to a cause/effect formula (Rainer 2014). When it comes to assessing environmental issues, this choice often leads to a paradox. In fact, in this field more so than for other social issues, the task of defining the problems depends on scientific information that, far from providing absolute certainties, are actually controversial and uncertain (Checker 2007). The pervasiveness of scientific discourse and the paradox that accompanies it have granted criminal law the form of a duel between experts from the same disciplinary fields in which judgment is cast far and wide, beyond the behavior of individual defendants[12]. In this trial, scientists and lawyers fought over a specific form of power, a power they asserted by providing genealogical reconstructions of both the events and the scientific knowledge explaining them. In the course of the trial proceedings, the experts for the defense produced evidence and data that conflicted with the "truths" presented by the prosecution in an effort to construct a scientific interpretation of the events that framed the disaster as wholly "natural". The prosecution's case did not focus on demonstrating that there had been a widespread perception of risk among the inhabitants of the flooded villages. The defense, in contrast, insisted on specifically underlining the absence of such a perception, at the same time stressing that probabilistic calculation systems and existing technological tools are simply unable to predict and control exceptional catastrophic events (which, they argued, the 2009 flood should be considered an example of). The testimony of one defendant, an engineer who designed some of the construction work carried out on one of the waterways flowing into the municipality of Scaletta to mitigate hydro-geological risk, provides an example of this:

> DEFENDANT: As a result, there had never ... there had never been a problem of this kind over the years. I would also note, not to be argumentative but just to make an observation, in chapter 5 of his ... of his report, Professor S.M. lists approximately 10, 12 events that occurred in the Messina area since 1600 [...], not in reference to the area of Scaletta, his account is limited to the Messina area. We know very well that the (climate of the) Messina area is completely ... if it rains in Messina there might be good weather in Scaletta and vice versa. So, he does not provide historical references. I did locate historical references [...], the area was perfectly stable and there was not the least indication that something like what occurred 12 years later might have occurred. Because it is true that the event occurred 12 years later (trial transcript, 11/02/2015: 17-18).

The defendant raised doubt about the validity of methodological procedures and the soundness of the prosecution's data; the only element granted the status of certain fact was the dramatic nature of the event and its consequences. For the defense team as a whole, «October 1, 2009 represents the dividing line about human knowledge of the power of nature before and after the occurrence of such powerful and unpredictable event» (trial transcript, 21/01/2015: 23). This definition was aimed at disrupting the etiological chain connecting the 2009 flood to events occurring over the course of the two previous years and erasing the historical and procedural density of the disaster within the explanatory categories of exceptionality and unpredictability.

The judge was given a particularly onerous task: the hearing dossier contained an enormous amount of evidence – an entire room in the Prosecutor's Office was dedicated to this trial – expressing divergent truths about the disaster, truths that provided the foundations for an equally numerous set of visions regarding the role politics and science should play in governing these phenomena. In order to make his ruling, the judge was required to explain the event in relation to a single legal truth that at the same time also expressed a judgment about the reliability of the various scientific positions represented in the courtroom.

Silent victims and practices of resignifying the disaster

In the next section I describe the contours of the discursive context within which the plaintiffs delivered their testimony and argue that these witness statements can be seen as the fruit of a gradual process in which locals acquired an increasing awareness of landslide risk in their area. This growing awareness manifested in the production of a large quantity of audiovisual and photographic documents which were later used as evidence during the trial. Together with brief statements in the courtroom, these images and documents were used to highlight points of comparability between the series of devastating events that occurred from 2007 onward and the disaster in 2009.

In the Messina Court of Assizes courtroom, the rationality of scientific and legal analyses framed the disaster in terms of its materiality, dissected it into countless fragments and dragged every one of its manifestations into the light. Science and law, systems of knowledge and power characterized by specific techniques of subjugation and particular truth discourses, gave rise to narratives in which the experiences and bodies of the victims were reduced to mere data and constrained the space set aside for their testimony within a rigidly structured mechanism. During the trial discussions, any little slide towards the more dramatic aspects and moments of the disaster was immediately corrected, bringing the debates back onto the rails of neutral discourse. This can be seen for instance in this interrogation of a relative of one of the victims:

> ATT.: Instead, as regards your sister, did she die immediately after the flood, or a few days later?
> JUDGE: Attorney, attorney, are these questions really necessary?
> ATT.: Judge, it seems that the report does not specify.
> JUDGE: Yes, I do not doubt that, but are they truly necessary? I think that is documentary evidence. I do not know what kind of, how can I say, bearing it might have here, I do not know what kind of impact these questions might have, especially on the witness. If you believe they are useful questions.
> ATT.: I will stop with this line of questioning, if the witness answers.
> JUDGE: Fine but I do not think she does not want to answer, I believe this question is useless in some respects because it is indicated in the documents, and in some ways is certainly not pleasant for the witness, right?
> ATT.: All right, Judge.
> JUDGE: It's up to you.
> ATT.: No more questions (trial transcript, 12/03/2014: 69).

In moments of public consultation that bring citizens face to face with experts, the fact of being consulted does not necessarily involve a corresponding position of power (Soneryd 2003; Boholm 2008). In contrast, testifying in court allows the injured party to intervene actively in the process of deliberation and influence its outcome. The fact that the victims were not allowed to recount their subjective experiences of the disaster, however, meant that their participation in the criminal apparatus of the trial was limited in terms of time and their performances as witness were constrained by rigid and unfamiliar codes of communication. Indeed, the processes for establishing responsibility often emerged through personal memories and were enmeshed in a web of cross-references that could only be disentangled, laboriously and with great difficulty, by deploying legal-technical rationality. In these cases, bodies and emotions can come to represent tools for affirming one's own truth and reacting to the condition of social distress generated by having endured the disaster. These tools proved particularly important for the injured parties in the trial I analyze here because they had opted not to present technical reports in support of their position, instead entrusting such scientific discussions of risk to the prosecution's experts[13].

The few residents of the flooded villages who chose to participate in the trial viewed the expression of their physical and emotional experiences as a means for expressing criticism about the actions of local political and administrative actors, criticism they had already begun to voice after the events of 2007 and which emerged even more vociferously during the post-flood reconstruction period. The plaintiffs sought to employ these tools despite the limited space granted them in the trial proceedings.

The victims used their statements to introduce

new elements into the hearings in an effort to outline in more depth and detail the local historical and social context in which the disaster's effects manifested. For example, some of them argued that local residents had begun to perceive that their local area was in imminent risk even earlier than the moment identified by the Public Prosecutor.

> WITNESS - Yes, in '96 there was the flood, and I remember that at the time my father-in-law filed all the necessary statements about what had happened, they carried out inspections and verbally reported that [...] there were run-off canals that needed periodic cleaning because for the moment there were no problems for the population, but if these drainage canals were not cleaned there would have been major consequences for the population over time. But they never did anything [...]. Let's say the only action they took involved rebuilding the low walls downhill from my house, but downhill not uphill, so uphill they did not change anything. In terms of warnings, we never got any except in 2007. After the flood of 2007, they told us to leave our homes temporarily [...]. Ten days later they told us that we could return to our homes (trial transcript, 12/03/2014: 23-24).

Throughout his statement, this witness described how local people had tried to prod institutions into taking action but met with little or no response. Although he had refused to participate in local committees and associations, this witness had waged a personal battle for many years to make public bodies aware of the dangerous situation he was forced to endure. When his entire family was killed in the 2009 flood, he sought to transform his pain into an additional instrument of condemnation. For example, he deliberately deployed his status of victim and played up the genuine tragedy of his personal experiences to acquire the degree of media and institutional visibility that would allow him to open up additional spaces for expressing his dissent and voicing cutting critiques of the way the institutions had handled matters.

On many occasions during the trial proceedings, the lawyers for the prosecution acted to interrupt the technicality of expert witnesses' courtroom performances and instead raise key political and administrative issues:

> So why could it have been predicted? It is true that in 2007, although the event only happened in 2007, something could have been stopped between 2007 and 2009, because in two years something could have been done. But the event did not only occur in 2007, we found out in 2007 that the land was fragile. We have discussed this at length, going back to '96, going back even further, as early as '96 they had understood [...]. So in all these years, this is another paradox and I said so during the discussion, why do we always have to take action after the fact? Why not ever before? I said in the discussion: "President, how is this possible?" At this point it almost makes me laugh and cry when I see these millions and millions of euros spent [...], but why didn't you do it earlier [...]? We always have to wait for casualties, always! And it's impossible, there's no intention of taking action, nothing is done and then they make a bunch of statements. So ... something could have been done. They could have done construction work, they could also have evacuated, they could have installed sirens (05/03/2016).

The lawyer I interviewed was also the president of one of the citizens committees formed after the 2009 flood. During my doctoral research we repeatedly crossed paths. Together, we had made public statements calling for state officials to revisit the urban plans and environmental policies implemented locally, regionally and nationally with a view to prioritizing prevention and taking into account the specific traits of the local areas and the needs of their inhabitants. Albeit in different ways, during the trial we both tried to use our acquired skills and knowledge to show that the only way local knowledge might have acquired legal significance was if the scientific technical interpretations presented during the hearings were contextualized within a broader interpretive framework capable of incorporating the experiences of individual victims in the processes of defining the disaster.

As I have tried to show, during the trial the "lay witnesses" – the term the judge and Public Prosecutor used to distinguish the plaintiffs from expert witnesses – were often forced to remain silent. During the trial, for example, it was only thanks to my testimony that the court was made aware of the series of protests that had been held between 2007 and 2009 in an effort to hold regional and local institutions accountable as well; likewise, courtroom testimony never addressed the cases in which local residents' previous experiences with similar events enabled them to take the preventive measures that protected them from the most dramatic effects of the disaster.

In order to grant weight to their physical presence in the courtroom and reposition themselves as active subjects within the dynamics of the trial, the victims stated that they had the ability to predict the phenomena. They requested that a series of documents be filed – petitions, police reports, au-

dio-visual and photographic documents – demonstrating their engagement over time and asserting a form of technical and experiential knowledge about the risk which, they argued, might have mitigated the dramatic consequences of the flood had it been taken into account sufficiently. A clear instance of this can be seen in their response to a statement by one of the defense attorneys who wrapped up his closing argument by declaring: «It might be useful to the *victims* (italics mine) to know that there was no human responsibility, to grant them a modicum more of peace of mind» (trial transcript, 20/01/2016). This statement immediately provoked angry reactions among the plaintiffs present in the courtroom, as I was able to observe from their distressed expressions and confirm right afterwards through conversations. All of them agreed that, although a guilty verdict and consequent sanctions would not diminish the pain of their losses, it would represent the most important chance to obtain a form of personal justice with significant political weight.

The sentence: an initial interpretation

When the judge read the verdict, the Messina Assizes courtroom was more crowded than it had been at any point during the years of the trial and enlivened by a melting pot of emotions that turned the air thick with palpable tension. In addition to the individuals directly involved in the trial, many lawyers from the municipal court were also present. «Look, the entire Prosecutor's Office is here. This is an extremely important ruling», commented one of the lawyers who represented me at the trial free of charge. In his opinion, the fact that the magistrates were so interested confirmed the legal and socio-political significance of the verdict.

As he read out the verdict, the judge's voice betrayed slight faltering and moments of hesitation that could only be perceived by those of us who had become familiar with his firm and decisive manner and admirably thorough work over the years. At the conclusion of this "technical trial" only the two mayors were found guilty, while their technicians, planners and public officials were acquitted of all charges. The verdict was only issued a few days ago and it will be several months before the grounds for the ruling are made public, so I cannot yet offer a detailed analysis of the outcome. The thoughts I present here are the fruit of personal reflections that I brought to the attention of several lawyers for the prosecution on the day of the last hearing (27/04/2016). The two mayors were convicted of manslaughter, probably because it had been shown that they had engaged in instances of criminal and reckless conduct that led to ineffective management of the emergency. As I have tried to show, the prosecutor chose to base his case almost exclusively on technical and scientific analysis at the expense of a clear legal formulation of the charges. This decision was determined in part by the nature of the crime in question, but at any rate it made it particularly challenging to demonstrate the causal relationship between human behavior and events necessary to hold individuals responsible for having caused the disastrous events. By accepting the defense's arguments, the judge effectively froze the disaster in the moment of the emergency and embraced an interpretive paradigm based on «an epistemology of limited knowledge» (Benadusi 2011: 98) according to which existing scientific knowledge and technological tools are unable to predict or control unforeseeable phenomena such as natural disasters[14].

The fact that the crime of causing a disaster was not proven and the defendant representing the emergency preparedness and risk prevention agency (the agency local residents had filed complaints against) was acquitted meant that risk management and territorial planning actors could not be held responsible. Common-knowledge elements, local understandings of the phenomena and the battles waged by the inhabitants of the flooded villages that the plaintiffs introduced during the trial in an effort to make them count as influential elements of the prosecution's case: all this failed to significantly impact on the judge's decisions. «It is as if 2007 never happened», was the disappointed response of the lawyer/activist mentioned above. The families of the victims voiced similar sentiments.

Conclusions

The progression of this criminal trial and the motivations driving the behavior of the actors involved are in keeping with the story of the disaster itself; indeed, they serve to highlight certain key features. Both the 2009 flood and the subsequent trial failed to trigger public debate at the national level, and in both cases only locally affected individuals and areas recognized the relevance of the issued being raised. At the same time, the relative disinterest of the media and public opinion was countered by the fact that the world of technical/scientific expertise recognized both the flood and the issues addressed in the courtroom as offering an enormous potential for improving our understanding of these phenomena.

In the eyes of the law, disasters present two different faces: they are antithetical to law and order in

that their concrete manifestations subvert the very concept of order; at the same time, however, they are generative of law (Douglas *et al.* 2007: 4). Indeed, such events can become «powerful *legal epiphanies* with the capacity to show how the law really works or what assets and values it protects» (Nitrato Izzo 2013: 170). In this case, the investigations and technical consultation were given connotations of novelty and complexity that transformed the trial into a debate/clash over the definition of the concept of predictability and, by extension, the possibility of implementing effective prevention policies. Many of the lawyers and most of the lay witnesses are convinced that establishing that a crime had been committed (that of causing disaster) and holding the directors, technicians and emergency preparedness officials responsible would set a precedent for other legal proceedings to be brought in response to the kind of hydro-geological events that affect Italy ever more frequently. At the same time, this official recognition could have guided the future political actions of local administrative bodies and public institutions.

The acquittal of all the defendants accused of unpremeditated disaster reinforced what I have termed an «emergency-oriented model» for managing public life, a model that shapes our thinking until we see the practices of local administration exclusively in terms of urgency and immediacy. By critically reconstructing the dynamics I observed in the courtroom, I have tried to illustrate the limits of a technocentric approach to understanding complex phenomena such as the 2009 flooding. Whether in the case of risk management and post-emergency response policies or the courtroom, analyzing disasters using only the tools of technical-scientific rationality cannot effectively bring to light the procedural and historical character of these phenomena, an aspect that the social sciences have been trying to reveal for over fifty years.

In the trial I analyze here, supplementing technical analyses with a socio-anthropological reading of the issues addressed in the courtroom might have helped to critically reconfigure the concept of disaster, thereby strengthening the prosecution's case and granting more weight to the evidence presented by the plaintiffs. For example, anthropological consultation might have served to organize the numerous documents filed by the victims and presented by the prosecution into a systematic corpus from which the judge could have gleaned an immediate socio-historical context for the events being discussed in the hearings. Furthermore, a careful ethnographic analysis could have demonstrated how everyday experiences of risk helped residents develop a local concept of the predictability of hydrogeological phenomena and drove private citizens to take steps to prevent damage. Positioned within a solid theoretical-interpretive framework, both of these elements would have helped the Public Prosecutor in proving that the disaster was «non-exceptional and predictable».

For some time now, forms of cross-contamination among anthropological and legal disciplines have given rise to specific sub-disciplines (Anthropology of Law, Law and Anthropology, *Antropologia giuridica*, *Antropologie juridique*). And yet this encounter has often been treated as a purely intellectual exercise involving only academics in which anthropology is understood as a tool for studying and understanding the law. In contrast, I believe that the social sciences – and anthropology in particular – can potentially provide law with tools for understanding reality.

Unlike the Anglo-American world, in Italy anthropology has not yet achieved recognition as a form of "expert knowledge" that would endow the advice produced by anthropological scholars with the status of evidence, thus legitimizing a role for them in the courtroom. For this to occur, I believe we would need to employ a broad approach and make room for critical-interpretive perspectives on contemporary phenomena in public debate. At the same time, academic institutions and individual researchers would need to join forces in order to more effectively valorize the potential applications of disciplinary knowledge. Although this process is still in its initial stages, the first fruits are already visible. Indeed, the establishment of two national associations and a public anthropology journal represent significant signs of a collective resolve to open the discipline up to a direct and participatory dialogue with the socio-political realities we study and to put into practice scholars' potential to act as advocates. If we understand anthropology as a tool of critical knowledge and social action, then taking part in criminal proceedings represents one of its most stimulating applications.

Notes

* The statement in the title above was used by a lawyer on the side of the side of the plaintiffs to define the disaster described in this article. I want to thank the two anonymous referees for the patience and meticulous care with which the reviewed my paper. Their critical feedback and the many stimuli they offered contributed substantially to improving a text which was not yet fully mature in its first version.

[1] One of the main theoretical-analytical contributions anthropology has made to our understanding of the social effects of disaster lies in its reconsideration of the role of victim. While the *pensée de l'urgence* (Revet 2007) approach characterizing humanitarian aid interventions tends to lump all victims together, objectifying them as part of specific categories, anthropological studies have instead shown that "victims" have agentive capacities and exercise agency in order to actively position themselves within the landscape of reconstruction.

[2] I met with representatives of the committees and associations representing the families of the victims on the occasion of the second anniversary of the April 6, 2009 earthquake in L'Aquila.

[3] Criminal case N. R.G. 886/13 - R.G.N.R.8262/09 R.G.N.R. The main village addressed in this article is Giampilieri, which is part of the city of Messina, and the nearby town of Scaletta Zanclea. These were the main areas damaged by the flooding.

[4] E. C. Jones *et al.* (2013) consider the experiences in the period leading up to a disaster to be a predictive factor with the power to shape people's perceptions of risk.

[5] Many victims consider the flooding a «pre-announced disaster». Its history can be interpreted as a parable of the changes affecting contemporary society and Italian society in particular, changes which – I would argue – are carrying us from a model of risk society in which disaster exists mainly in terms of power, to an emergency society in which the state of emergency, as defined by the philosopher Giorgio Agamben (2003) is applied to a wide range of situations and contexts and acts to render catastrophe a "normal" condition of citizens and institutions' daily life. In the villages of the Messina area and Scaletta in particular, the disaster has given rise a reorganization of power and authority which, in some flooded villages, has served to oust the resident political class, thus providing clear evidence of the political potential of disaster (Falconieri 2015a).

[6] The judge scheduled three hearings per month beginning on 29 January 2014, and these hearings were rarely postponed – indeed, this occurred mainly in the final phase of the trial.

[7] As early as 1977 Lawrence Rosen presented a series of case studies in which researchers were called to testify in legal proceedings as experts; Rosen reflects on the ethical, epistemological and theoretical considerations raised by this specific form of participation in social life. More recently Laëtitia Atlani-Duault and Stéphane Dufoix (2014) have examined three different ways that researchers (historians, sociologists and anthropologists) participate in high-profile public trials. In Italy, this phenomenon remains rare. The only exception is the case in which the Aquila Court engaged anthropologist Antonello Ciccozzi as a consultant following the 6 April 2009 earthquake (see Benadusi and Ciccozzi *infra*).

[8] In recent decades, researchers in the humanities and social sciences have increasingly promoted and celebrated scholars' active engagement in public life and participation in collective actions. The American sociologist Michael Burawoy has taken a pioneering role in promoting an approach of "public sociology" (Burawoy 2005) that also inspired history and related disciplines. See Back, Maida (2013), Low, Marry (2010) and, in Italian, Colajanni (2014) for insider descriptions of the anthropological debate.

[9] In writing my (as yet unpublished) doctoral dissertation, *L'Alluvione di Messina del 1 ottobre 2009. Politiche pubbliche e retoriche del conflitto in un comune della Sicilia nord-orientale*, I consistently tried to highlight the potential opportunities and risks inherent in the particular ethical-applied approach I have followed in my ethnographic work.

[10] I did not conduct interviews with the plaintiffs, whose stories I already knew quite well; I opted instead for long informal talks during breaks or after each of the hearings. In the legal context, most of my recorded conversations, interviews and informal talks were carried out with the lawyers working on behalf of the plaintiffs. As far as these lawyers are concerned, my analyses of behavior and discursive practices are based exclusively on direct observation, short and informal talks, and my examination of the trial transcripts.

[11] This is the procedure that the judge followed to reach a decision in the court case held after the Vajont disaster of 1963, for instance.

[12] This low degree of agreement about risk among the experts is analyzed in publications by Paul Slovic, Baruch Fischhoff and Sara Lichtenstein. See in particular Slovic, Fischhoff, Lichtenstein 1977 and Fischhoff *et al.* 1984.

[13] In almost all instances, the injured parties decided not to produce expert witnesses for their side because such outside consultation would have involved excessively high expenses.

[14] Mara Benadusi argues that this paradigm underlies the international emergency management policies adopted following the tsunami that struck Sri Lanka in December 2004, and that it is counterbalanced by the implementation of ex-post interventions aimed at fostering a resilient, adaptive approach in the affected populations.

Along the same lines, over the last twenty years the regulatory and operational departments of the Italian Emergency preparedness agency have focused on fine-tuning their practices for managing emergencies at the expense of analysis and risk prevention activities.

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